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BY *[Signature]*
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE
(PPA) PRODUCTS LIABILITY
LITIGATION,

MDL NO. 1407

This document relates to:
Alvis v. Glaxosmithkline, et
al., No. C01-2186

ORDER DENYING DEFENDANT
NOVARTIS AG'S MOTION TO
DISMISS FOR LACK OF
PERSONAL JURISDICTION

FILED UNDER SEAL

I. BACKGROUND

Plaintiff, a resident of Tennessee, filed a complaint in federal district court in Oregon alleging injuries stemming from her consumption of PPA-containing products. She included in this action as defendants, among others, Novartis AG ("NAG"), Novartis Corporation, Novartis Consumer Health, Inc., and Novartis Pharmaceuticals Corporation ("NPC"). NAG is a foreign corporation, organized and existing under the laws of Switzerland. It resulted from the merger of two Swiss corporations, Sandoz Ltd. ("Sandoz") and Ciba-Geigy AG ("Ciba"). NPC is a U.S. corporation, organized under the laws of Delaware and with its principal place of business in New Jersey.

NAG moved to dismiss based on lack of personal jurisdiction. Plaintiff asserted the establishment of personal jurisdiction

1 based on the existence of an agency relationship between NAG and
2 NPC, and by attributing NPC's Oregon contacts to NAG. Defendant
3 disputed the existence of an agency relationship between NPC and
4 NAG, maintaining that NAG is merely a holding company of which
5 NPC is an indirect affiliate. Plaintiff counter-moved to post-
6 pone consideration of the motion to dismiss until after the
7 taking of jurisdictional discovery, and NAG moved for a protec-
8 tive order to stay merits discovery pending the resolution of its
9 jurisdictional challenge.

10 In May 2002, the court struck NAG's motion to dismiss with
11 leave to re-note pending the conclusion of jurisdictional discov-
12 ery underway in an un-related case, DaCosta v. Novartis AG et
13 al., Case No. CV 01-800-BR (D. Or.), in which a court faced the
14 identical issue of personal jurisdiction over NAG. The court
15 also granted NAG's motion for a protective order.

16 In August 2002, the parties in the DaCosta litigation
17 entered into a joint stipulation of dismissal following the
18 completion of jurisdictional discovery, but prior to a resolution
19 of the personal jurisdiction question. Plaintiff filed the
20 current motion seeking a ruling on NAG's motion to dismiss.
21 Having reviewed all relevant pleadings, along with the remainder
22 of the record, and, being fully advised, the court finds and
23 concludes as follows:

24 II. DISCUSSION

25 The burden of establishing personal jurisdiction rests on
26 plaintiff. Overby v. Oregonian Publ'g, 882 F. Supp. 964, 966 (D.

1 Or. 1995) (citing Farmers Ins. Exch. v. Portage La Prairie Mut.
2 Ins. Co., 907 F.2d 911, 912 (9th Cir. 1990)). The court has
3 elected to resolve the motion on the parties' briefs, exhibits,
4 and affidavits, rather than hold an evidentiary hearing. There-
5 fore, plaintiff need only "make a prima facie showing of juris-
6 dictional facts in order to defeat [the] motion to dismiss."
7 Farmers Ins. Exch., 907 F.2d at 912.¹ "That is, [] plaintiff
8 need only demonstrate facts that if true would support jurisdic-
9 tion over the defendant.'" Doe v. Unocal Corp., 248 F.3d 915,
10 922 (9th Cir. 2001) (quoting Ballard v. Savage, 65 F.3d 1495,
11 1498 (9th Cir. 1995)). The court takes plaintiff's version of
12 the facts as true for purposes of a Rule 12(b)(2) motion to
13 dismiss, and resolves any conflicts in the evidence set forth in
14 the affidavits in plaintiff's favor. Id.

15 In order to establish personal jurisdiction, plaintiff must
16 show both that Oregon's long-arm statute confers personal juris-
17 diction over the nonresident defendant, and that the exercise of
18 jurisdiction comports with due process. Gray & Co. v. Firsten-
19 berg Mach. Co., Inc., 913 F.2d 758, 760 (9th Cir. 1990); Overby,
20 882 F. Supp. at 966. Oregon's long-arm statute confers personal
21 jurisdiction to the extent due process allows. Overby, 882 F.

23 ¹The inclusion of deposition testimony and exhibits does not
24 convert the standard to a preponderance of the evidence. See,
25 e.g., Omeluk v. Langsten Slip & Batbyggerri A/S, 52 F.3d 267, 268
26 (9th Cir. 1995) (prima facie standard applied where plaintiff
submitted "declarations, deposition testimony, and other
evidence.")

1 Supp. at 966; Or. R. Civ. Pro. 4(L).

2 Satisfaction of due process occurs when a nonresident
3 defendant has "'certain minimum contacts with [the forum] such
4 that the maintenance of the suit does not offend "traditional
5 notions of fair play and substantial justice.'" Helicopteros
6 Nacionales de Columbia, S.A. v. Hall, 466 U.S. 408, 414 (1984)
7 (quoting International Shoe Co. v. Washington, 326 U.S. 310, 316
8 (1945) (quoting Milliken v. Meyer, 311 U.S. 457, 463 (1940))).²
9 In addition to establishing the requisite contacts, the assertion
10 of jurisdiction must be found reasonable. Asahi Metal Indus. Co.
11 v. Superior Ct., 480 U.S. 102, 107 (1987); Unocal Corp., 248 F.3d
12 at 925 (citing Amoco Egypt Oil Co. v. Leonis Navigation Co.,
13 1 F.3d 848, 851 (9th Cir. 1993)).

14 A. NAG Contacts with Oregon

15 NAG states its purpose as "hold[ing] interests in enter-
16 prises in the area of health care or nutrition [or] in the areas
17 of biology, chemistry, physics, information technology or related
18 areas." Affidavit of Brian Campf ("Campf Aff."), Ex. 11. Except
19 through the activities of its affiliates, NAG has no physical
20 presence and conducts no business in Oregon. NPC falls within

21
22 ²General jurisdiction requires that the defendant's contacts
23 with the forum be "continuous and systematic," and applies
24 whether or not the cause of action arises from those contacts.
25 Helicopteros Nacionales de Columbia, S.A., 466 U.S. at 414-16.
26 Specific jurisdiction requires a showing that the nonresident
defendant purposely directed activities at residents in the forum
state, and that the cause of action arises out of or is related
to the defendant's forum contacts. See Burger King Corp. v.
Rudzewicz, 471 U.S. 462, 471-73 (1985).

1 the pharmaceuticals sector of the "Novartis Group," comprising in
2 total some 360 affiliates in 140 different countries. See Campf
3 Aff., Ex. 8. Specifically, NPC is a wholly-owned subsidiary of
4 Novartis Finance Corporation, a U.S. holding company wholly-owned
5 by another U.S. holding company, Novartis Corporation, which is a
6 wholly-owned subsidiary of a Swiss holding company, Novartis
7 Holding AG, which, finally, is a wholly-owned subsidiary of NAG.
8 See Decl. of Peter Kornicker ("Kornicker Decl."), ¶¶ 6-7.

9 There is no dispute that NPC is subject to personal juris-
10 diction in Oregon. See NAG's Opp'n at 4 & n.1.³ As such, the
11 court must determine whether NPC's Oregon contacts may be attrib-
12 uted to NAG through an agency relationship. See Unocal Corp.,
13 248 F.3d at 925 ("Where, as here, the defendant's alleged con-
14 tacts are through its corporate subsidiaries, the Court must
15 engage in a preliminary inquiry to determine whether the subsid-
16 iaries contacts are properly attributed to the defendant.")

17 1. Personal Jurisdiction Based on Agency:

18 The mere existence of a parent-subsidiary relationship is
19 not sufficient to confer personal jurisdiction over the parent
20 based on the subsidiary's forum contacts. Unocal Corp., 248 F.3d
21 at 925.⁴ Further, "a parent corporation may be directly involved
22

23 ³ The parties do not specify whether NPC is subject to
24 general or specific jurisdiction.

25 ⁴ Whether an alleged agent is a subsidiary or independently
26 owned is irrelevant to this analysis. Wells Fargo & Co. v. Wells
Fargo Express Co., 556 F.2d 406, 423 (9th Cir. 1977). For the
purposes of this discussion, the court will utilize the term

1 in the activities of its subsidiaries without incurring liability
2 so long as that involvement is 'consistent with the parent's
3 investor status[.]'" Id. at 926 (quoting United States v.
4 Bestfoods, 524 U.S. 51, 72 (1998)). "Appropriate parental
5 involvement includes: 'monitoring of the subsidiary's perfor-
6 mance, supervision of the subsidiary's finance and capital budget
7 decisions, and articulation of general policies and
8 procedures[.]'" Id. (quoting Bestfoods, 524 U.S. at 72).

9 However, if the alleged parent and subsidiary are not really
10 separate entities, or if one entity acts as an agent of the
11 other, the subsidiary's contacts may be imputed to the parent.
12 Id.; Wells Fargo & Co. v. Wells Fargo Express Co., 556 F.2d 406,
13 424 (9th Cir. 1977). "An alter ego or agency relationship is
14 typified by parental control of the subsidiary's internal affairs
15 or daily operations." Unocal Corp., 248 F.3d at 926. But see
16 Modesto City Sch. v. Riso Kagaku Corp., 157 F. Supp. 2d 1128,
17 1133-34 (E.D. Cal. 2001) (finding that Unocal Corp. does not
18 require plaintiff to show that a parent controls all of a subsid-
19 iary's day-to-day activities in order to satisfy the general
20 agency test).

21 In order to satisfy the agency test for purposes of estab-
22 lishing personal jurisdiction, the plaintiff must show:

23 that the subsidiary functions as the parent corpora-
24 tion's representative in that it performs services that
25 are 'sufficiently important to the foreign corporation

26 subsidiary.

1 that if it did not have a representative to perform
2 them, the corporation's own officials would undertake
to perform substantially similar services.'

3 Unocal Corp., 248 F.3d at 928 (quoting Chan v. Society Expedi-
4 tions, Inc., 39 F.3d 1398, 1405 (9th Cir. 1994) (quoting Wells
5 Fargo & Co., 556 F.2d at 423)). "Consequently, '[t]he question
6 to ask is . . . whether, in the truest sense, the subsidiar[y's]
7 presence substitutes for the presence of the parent.'" Id. at
8 928-29 (quoting Gallagher v. Mazda Motor of Am., Inc., 781 F.
9 Supp. 1079, 1084 (E.D. Pa. 1992)).

10 In Unocal Corp., the Ninth Circuit applied the agency test
11 to a foreign holding company. In so doing, the court looked to a
12 Pennsylvania decision in which the court:

13 distinguished an agency relationship between a parent
14 and its subsidiary from that of a holding company and
15 its subsidiary, explaining that in the case of a hold-
16 ing company the parent could simply hold another type
of subsidiary, in which case imputing the subsidiaries'
jurisdictional contacts to the parent would be im-
proper.

17 Id. at 929 (citing Gallagher, 781 F. Supp. at 1085). The court
18 also looked to a New York decision:

19 [W]here a holding company is nothing more than an
20 investment mechanism [, i.e.,] a device for diversify-
21 ing risk through corporate acquisitions[,] the subsid-
22 iaries conduct business not as its agent but as its
23 investments. The business of the parent is carried out
entirely at the parent level. Where, on the other
24 hand, the subsidiaries are created by the parent, for
25 tax or corporate finance purposes, there is no basis
26 for distinguishing between the business of the parent
and the business of the subsidiaries.

Id. (quoting Bellomo v. Pennsylvania Life Co., 488 F. Supp. 744,
746 (S.D.N.Y. 1980)). The court concluded that, "[a]t an irre-

1 ducible minimum, . . . the agent [must] perform some service or
2 engage in some meaningful activity in the forum state on behalf
3 of its principal such that its 'presence substitutes for [the]
4 presence of the principal.'" Id. at 930 (quoting Gallagher, 781
5 F. Supp. at 1084).

6 2. Attributing NPC's Oregon Contacts to NAG:

7 As a holding company without any employees, NAG maintains
8 that it would necessarily have to find another entity to under-
9 take NPC's role in NPC's absence, thus entitling it to the
10 protection afforded the holding company in Unocal Corp. NAG also
11 focuses on each of the discrete pieces of evidence offered by
12 plaintiff, pointing out that various courts have found these
13 factors insufficient to support personal jurisdiction. However,
14 the court finds NAG distinguishable from the holding company at
15 issue in Unocal Corp. and, in considering the totality of the
16 evidence, finds that plaintiff establishes a prima facie case for
17 the exercise of personal jurisdiction over NAG.

18 While NPC may be several layers of ownership removed from
19 NAG, plaintiff demonstrates the existence of a management system
20 penetrating those layers. NAG's Board of Directors, chaired by
21 NAG CEO Daniel Vasella, is "ultimately responsible for the
22 organization, administration and direction of Novartis and
23 determines the company's strategy." See Campf Aff., Ex. 8.
24 Vasella also chairs the Novartis Executive Committee ("ECN")
25 which, according to company documents, "develops and implements
26

1 strategies for the Group and procures and allocates the required
2 resources." Id.⁵ Raymond Breu, NAG's Chief Financial Officer,
3 serves on both the ECN and on NPC's Board of Directors. See
4 Kornicker Decl., ¶ 19. Thomas Ebeling, the CEO of another
5 Novartis affiliated company - Novartis Pharma AG, represents the
6 pharmaceutical sector, and thus NPC, on the ECN and serves on
7 NPC's Board of Directors.⁶ Ebeling also chairs the Innovation
8 Management Board ("IMB") operating within Novartis Pharma AG, of
9 which Vasella is also a member and which makes strategic drug
10 development and funding decisions. See Strosky Aff., Ex. A at
11 106:3-114:1.

12 NAG rejects the significance of this evidence, pointing to
13 the fact that Ebeling is neither a director nor an employee of
14 NAG, portraying both the ECN and IMB as mere roundtables for
15 discussion, and distinguishing Novartis Pharma AG, and its IMB,
16 from NAG. However, Vasella, although the "head" of the ECN, was
17 unable to explain "where legally [the ECN] is sitting" within the
18 Novartis Group. Id., Ex. A at 22:15-23:6; 25:23-26:1. NAG
19 certainly does not dispel the impression that the ECN falls
20

21
22 ⁵ See also Campf Aff., Ex. 11 (NAG's Articles of
23 Incorporation and Board Regulations require it to delegate to the
24 ECN the "strategic and operative day-to-day management of the
25 Company and its business sectors and supporting functions.")

26 ⁶ See also Aff. of Beth Strosky ("Strosky Aff."), Ex. A at
48:11-23, 50:19-51:7 (Vasella testified that Ebeling represents
NPC "indirectly and managerially," and "delegate[s] the day-to-
day implementation" of NAG's directives to NPC).

1 directly below NAG's Board of Directors in managing the Novartis
2 Group. See Campf Aff., Ex. 8 (Novartis "Facts & Figures
3 2001/2002" listing under "Management" - NAG's Board of Directors;
4 the ECN; and geographic and sector head representation on the
5 ECN). Additionally, while Vasella disputes the characterization,
6 at least two separate and recent Novartis reports describe the
7 ECN as working on developing and implementing strategies for the
8 Novartis Group. See Campf. Aff., Ex. 8 ("Novartis Facts &
9 Figures 2001/2002") and Ex. 11 ("Articles of Incorporation of
10 Novartis AG (22 March 2001)"). Moreover, merely pointing to
11 Ebeling's titles and positioning within Novartis Pharma AG,
12 rather than NAG, does not detract from plaintiff's argument that
13 NAG actively controls the decisions and activities of NPC through
14 its board, committees, and executives - wherever they may happen
15 to officially reside within the Novartis Group.⁷

16 Plaintiff also goes further, pointing to specific instances
17 in which NPC appears to have required authorization from NAG -
18 whether that authorization was channeled through the ECN or
19 Novartis Pharma AG - with respect to basic decisions and activi-
20 ties. See, e.g., Campf Aff., Ex. 13 (document showing that NPC
21 asked the ECN to approve the execution of supply agreements for
22 certain compounds) and Strosky Aff., Ex. A, at 131:23-135:12

24 ⁷Similarly, the fact that some of the documentary support
25 offered demonstrates functions that reside with Novartis Pharma
26 AG (or resided with its predecessor), rather than NAG, does not
lessen the importance of that evidence.

1 (Vasella's testimony that NPC would only do such a thing "as an
2 agent" of "the global function of Business Development and
3 Licensing organization" within Novartis Pharma AG).⁸ Plaintiff
4 also points out that NPC stepped into the role held by one of
5 NAG's predecessors, Ciba, with respect to extensive research
6 projects undertaken in conjunction with, among others, the Oregon
7 Health & Sciences University ("OHSU"). For example, NPC took
8 over the OHSU-based development of the leukemia drug "Gleevac"
9 from Ciba. Following the conclusion of that successful research,
10 NAG applied for the Gleevac trademark.⁹

11 Vasella acknowledges that, although apparently referring to
12 Novartis Pharma AG: "[W]e are paying for the research which is
13

14 ⁸ See also Campf. Aff., Ex. 20 (NPC memorandum to ECN seeking
15 authorization to acquire the rights to a product); Ex. 21 (ECN
16 approved the sale of certain brand name products in the U.S.);
17 Ex. 22 ("Pharma Committee Meeting" notes indicating discussion of
18 U.S. strategy; notes that Ebeling "may authorize the US to create
a Second Oncology field force in 2001."); and Ex. 23 (ECN minutes
indicating ECN would approve NPC contract under condition that an
early termination clause be included).

19 ⁹ In a Wall Street Journal article, Vasella noted his
20 personal involvement in ensuring the availability of Gleevac
following successful drug trials:

21 Vasella[] took personal charge of the situation early
22 last summer, ordering a steep increase in production.
23 'I told people not to worry about excess supplies []
24 that might never be sold[.] People had been trying to
25 manage the testing program in a controlled way[.] We
want to get this drug available to patients quickly,
and to do that you simply can't stick to bureaucratic
rules.'

26 See Campf Aff., Ex. 14.

1 being performed in the U.S. We are paying for it out of Switzer-
2 land." Id. at 115:7-116:6. The significance of this investment
3 is clear. NPC accounts for 43% of Novartis sales. See Campf
4 Aff., Ex. 8. See also Chan, 39 F.3d at 1406 (including consider-
5 ation of what percentage of the parent's business came from the
6 subsidiary as a relevant factor in the agency analysis). NAG
7 also owns nearly every patent and trademark of Novartis products
8 sold in the United States. See Campf Aff., ¶ 2 (NAG owns 832
9 pending and registered trademarks, while NPC owns 10; NAG has 381
10 patents, while NPC has 4).

11 NAG responds that decisions as to whether to invest millions
12 of dollars and thousands of personnel hours into drug development
13 for sale worldwide are not the sort of day-to-day decisions NAG
14 must remove itself from; that they are strategic decisions
15 appropriate for parental involvement. However, the evidence
16 proffered by plaintiff supports the conclusion that NAG's in-
17 volvement extends well beyond "'monitoring of the subsidiary's
18 performance, supervision of the subsidiary's finance and capital
19 budget decisions, and articulation of general policies and
20 procedures[.]'" Unocal Corp., 248 F.3d at 926 (quoting
21 Bestfoods, 524 U.S. at 72). See also Modesto City Sch., 157 F.
22 Supp. 2d at 1133-34 (Unocal Corp. does not require plaintiff to
23 show that a parent controls all of a subsidiary's day-to-day
24 activities in order to satisfy the general agency test).

25 Plaintiff also presents numerous other facts and documents
26

1 in support of her position. See, e.g., Campf Aff., Ex. 10 (2001
2 annual report reflecting financial statements for "all companies
3 which Novartis AG, Basel, directly or indirectly controls," and
4 that NAG controls greater than 90 percent of the voting rights of
5 almost all of its subsidiaries); Exs. 15-18 (documents reflecting
6 "Pharma" global marketing and labeling control, and that a
7 previously existing affiliate relied upon Sandoz and its Swiss-
8 based drug monitoring center to provide adverse drug reports);
9 and Ex. 24 (excerpt printed from Novartis website, including the
10 headline "Novartis Steps up US Research Investment" and "2002
11 Novartis AG Legal Disclaimer").

12 NAG correctly notes that, standing alone, this evidence
13 might not otherwise suffice to confer agency status upon NAG and
14 NPC. See, e.g., Unocal Corp., 248 F.3d at 929 (consolidation of
15 subsidiaries' activities into parent company's reports and
16 indirect stock ownership insufficient to support agency relation-
17 ship). However, the court does not consider these facts in
18 isolation. Instead, the court looks to the totality of the
19 circumstances. See, e.g., ACORN v. Household Int'l, Inc., 211 F.
20 Supp. 2d 1160, 1165-67 (N.D. Cal. 2002) (finding prima facie case
21 for personal jurisdiction over holding company under totality of
22 circumstances, including existence of unitary corporate struc-
23 ture, overlapping boards, and collective marketing efforts);¹⁰

24
25 ¹⁰ Cf. Bulova Watch Co. v. K. Hattori & Co., 508 F. Supp.
26 1322, 1341 (E.D.N.Y. 1981) (finding subsidiaries to be general
agents where the parent corporation manufactured watches and sold

1 Arch v. American Tobacco Co., 984 F. Supp. 830, 837 (E.D. Pa.
2 1997) ("[T]his court believes that it should examine all relevant
3 factors that relate to the intimacy of the relationship between
4 the parent and subsidiary to assess whether the contacts of the
5 subsidiary [] should be imputed to the parent.") Here, the court
6 considers the facts and documents as cumulatively supporting a
7 prima facie case for the exercise of personal jurisdiction over
8 NAG.¹¹

9 Plaintiff has set forth facts supportive of a finding that
10 NAG is more than a simple investment mechanism and that, in NPC's
11 absence, NAG would have little choice but to step in to take over
12 NPC's operations. The fact that NAG denominates itself a mere
13 holding company and has no direct employees does not, under these
14 circumstances, mandate a contrary conclusion. Cf. Modesto City
15

16 them to its American subsidiaries for distribution in the U.S.,
17 its largest export market: "Large and sophisticated as it may be,
18 it is very much the hub of a wheel with many spokes. It is
19 appropriate, therefore, to look to the center of the wheel in
countries." (emphasis added).

20 ¹¹To the extent other courts have reached different
21 conclusions with respect to NAG and its predecessors, the court
22 respectfully disagrees and notes that it here decides based on
23 the evidence currently before this court. Compare SGI Air
24 Holdings II LLC v. Novartis Int'l AG, 192 F. Supp. 2d 1195, 1199-
25 1201 (D. Colo. 2002) (finding no personal jurisdiction over NAG
26 through acts of its subsidiaries), appeal docketed, No. 02-1183,
with Smith v. Sandoz Ltd., 1:95-cv-3389-MHS, slip op. at 10-11
(N.D. Ga. Sept. 27, 1996) (attached as Campf Aff., Ex. 26)
(finding prima facie case for exercise of personal jurisdiction
over Sandoz Ltd. by attributing contacts of its U.S.-based
subsidiary).

ORDER

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1 Sch., 157 F. Supp. 2d at 1135 (utilizing "'a common sense ap-
2 praisal of economic relationships'" in determining existence of
3 agency relationship between parent and subsidiary) (quoting
4 Bulova Watch Co. v. K. Hattori & Co., 508 F. Supp. 1322, 1327
5 (E.D.N.Y. 1981)).¹² The facts as presented by plaintiff support
6 a determination that NPC's presence in Oregon substitutes for the
7 presence of NAG. Plaintiff has satisfied her prima facie burden
8 with respect to attributing NPC's Oregon contacts to NAG.

9 B. Reasonableness of Exercising Personal Jurisdiction Over NAG

10 As noted, the court must also consider whether the exercise
11 of jurisdiction over NAG would be reasonable. Asahi, 480 U.S. at
12 113; Unocal Corp., 248 F.3d at 925 (citing Amoco Egypt Oil Co., 1
13 F.3d at 851). A number of factors may be considered in making
14 this determination, including:

- 15 (1) the extent of a defendant's purposeful interjection
16 into the forum state's affairs; (2) the burden on the
17 defendant of defending in the forum; (3) the extent of

18 ¹²See also Newport Components, Inc. v. NEC Home Elec., Inc.,
19 671 F. Supp. 1525, 1534 n. 10 (C.D. Cal. 1987) ("[M]odern courts
20 have implicitly recognized that as the international economy
21 becomes more interdependent, the formal but artificial separation
22 between a foreign parent corporation and its domestic subsidiary
23 becomes less compelling for purposes of determining personal
24 jurisdiction. Moreover, with the increasing domination of the
25 world economy by multinational corporations, it is appropriate to
26 look to the parent company (i.e. the 'hub of the wheel') when its
subsidiaries (i.e. the 'spokes of the wheel') violate substantive
rights in foreign countries. The court agrees with this trend in
the law toward greater accountability by foreign corporate
entities, and will accordingly look to the 'real' rather than the
'formal' relationship between [the foreign parent company] and
its subsidiaries in deciding the jurisdiction issue.") (internal
citations omitted).

1 conflict with the sovereignty of the defendant's home
2 state; (4) the forum state's interest in adjudicating
3 the dispute; (5) the most efficient judicial resolution
4 of the controversy; (6) the importance of the forum to
5 the plaintiff's interest in convenient and effective
6 relief; and (7) the existence of an alternative forum.

7 Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co., 284
8 F.3d 1114, 1125 (9th Cir. 2002).¹³

9 As a foreign corporation, NAG faces unique burdens litigat-
10 ing in a foreign legal system. See Asahi, 480 U.S. at 114 ("The
11 unique burdens placed upon one who must defend oneself in a
12 foreign legal system should have significant weight in assessing
13 the reasonableness of stretching the long arm of personal juris-
14 diction over national borders.") Issues of sovereignty may also
15 be relevant. However, as the Ninth Circuit stated in Gates
16 Learjet Corp. v. Jensen, 743 F.2d 1325, 1333 (9th Cir. 1984), the
17 sovereignty factor is not dispositive "because, if given control-
18 ling weight, it would always prevent suit against a foreign
19 national in a United States Court."

20 The court does not believe these factors render personal
21 jurisdiction over NAG in the present litigation either unreason-
22 able or unfair. There is no dispute as to NPC's purposeful
23 contacts with Oregon and plaintiff has established that these

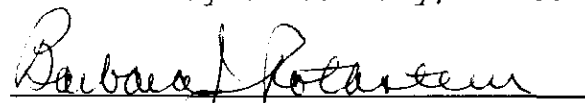
24 ¹³ See also Asahi, 480 U.S. at 113 (reasonableness analysis
25 includes consideration of "the burden on the defendant, the
26 interests of the forum State, and the plaintiff's interest in
obtaining relief," and the weighing of the judicial system's
interest in obtaining the most efficient resolution of
controversies and in furthering fundamental substantive
policies).

1 contacts may be attributed to NAG. Plaintiff's lawsuit stems
2 from decisions made with respect to pharmaceutical products
3 produced by NPC, and much of the evidence proffered by plaintiff
4 in support of personal jurisdiction points to NAG's control over
5 NPC's product-related decision making and activities. Any burden
6 on NAG as a foreign corporation will be considerably lessened
7 through its close relationship with NPC. In sum, the court finds
8 that the exercise of personal jurisdiction over NAG would be
9 reasonable.

10 III. CONCLUSION

11 The court finds that plaintiff succeeds in making out a
12 prima facie showing of jurisdictional facts sufficient to defeat
13 NAG's motion to dismiss. Therefore, NAG's motion to dismiss
14 based on lack of personal jurisdiction is DENIED.

15 DATED at Seattle, Washington this 9th day of January, 2003.

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17 BARBARA JACOBS ROTHSTEIN
18 UNITED STATES DISTRICT JUDGE
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